

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

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PATRICK L. SHORTY,

Plaintiff,

vs.

MUNICIPALITY OF ANCHORAGE,  
et al.,

Defendants.

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Case No. 3:05-cv-00237-TMB

ORDER GRANTING  
APPLICATION TO WAIVE  
PREPAYMENT OF FEES

Patrick L. Shorty, representing himself, has filed an interlocutory appeal, and an application to waive prepayment of fees, showing that he is unable to prepay the filing fee in his appeal.<sup>1</sup> Mr. Shorty's application to waive prepayment of fees will, therefore, be granted.

Under 28 U.S.C. § 1915(b), however, Mr. Shorty must pay the full \$455.00 filing fee. An initial partial filing fee of \$2.41 has been assessed,<sup>2</sup> and must be paid

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<sup>1</sup> See Docket Nos. 60, 62.

<sup>2</sup> Under 28 U.S.C. § 1915(b)(1), the Court assesses an initial partial filing fee of 20% of the average monthly deposits, or 20 % of the average monthly balance, whichever is greater.

as soon as funds are available. Mr. Shorty will then owe monthly payments in the amount of twenty percent of the past month's income from his trust account each time the amount in his account exceeds \$10.00, until the statutory filing fee of \$455.00 is paid in full.<sup>3</sup> **Responsibility for collecting these fees and submitting them to the Court lies with the agency that has custody of the prisoner.**<sup>4</sup>

Whether or not the prisoner has paid all or a portion of the filing fee, the appeal will be dismissed if the prisoner's "allegation of poverty is untrue ... or the ...appeal ... is frivolous or malicious."<sup>5</sup> When an appeal is dismissed, the Court keeps the \$455.00 filing fee to cover the costs of processing the case. No part of the fee will be returned to Mr. Shorty; instead, the Court continues to collect the fee until it is paid in full.

**IT IS HEREBY ORDERED** that:

1. Mr. Shorty's application to waive prepayment of fees, at docket number 62, is GRANTED;
2. Spring Creek Correctional Center (SCCC) (or any other institution with custody of Mr. Shorty) shall collect from his prison trust account an initial

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<sup>3</sup> See 28 U.S.C. § 1915(b)(2).

<sup>4</sup> See *id.*

<sup>5</sup> 28 U.S.C. § 1915(e)(2).

partial filing fee in the amount of \$2.41, and immediately send that payment to the Clerk of Court (when funds are available);

3. SCCC (or any other institution with custody of Mr. Shorty) shall collect the balance of the \$455.00 filing fee owed in this case by collecting monthly payments from Mr. Shorty's prison trust account in an amount equal to twenty percent (20%) of the past month's income credited to his trust account and send payments to the Clerk of Court each time the amount in the account exceeds \$10.00. ALL PAYMENTS SHALL BE CLEARLY IDENTIFIED BY THE NAME AND NUMBER ASSIGNED TO THIS ACTION;
4. The Clerk of Court is directed to serve a copy of this Order on SCCC;
5. The Clerk of Court is directed to provide a copy of this Order to the Financial Section of the Court; and
6. SCCC shall forward a copy of this Order to any other institution which receives custody of Mr. Shorty.

DATED this 23rd day of August, 2007, at Anchorage, Alaska.

/s/TIMOTHY M. BURGESS  
United States District Judge